

REMARKS

Claim 1 has been amended in a manner which is believed to overcome the rejection under 35 U.S.C. 112. No new matter has been introduced by this Amendment.

As amended, claim 1 also defines an invention which is patentable over Statutory Invention Registration H1674 (Ames et al.). For reasons discussed below, amended claim 1 is not obvious from the disclosure of this reference.

Ames et al. discloses an absorbent article, e.g., a diaper, which has a fastening system having nine (9) male/female fasteners for providing the user with different options as to how the article is to be constructed and used. This fastening system has two fastening assemblies, a first fastening assembly designed for constructing the absorbent article in a belted configuration and a second fastening assembly designed for constructing and fastening the article in a conventional configuration. See, e.g., Abstract, column 2, lines 34-40 and column 2, line 53 to column 3, line 9. It must be pointed out at the outset that claim 1 does not recite two fastening assemblies in the manner required by Ames et al.

The stated object of Ames et al. is set forth in column 2, lines 23-25 as follows:

Therefore, it is an objective of the present invention to provide an absorbent article having a refastenable system designed to allow the absorbent article to be constructed in a conventional, belt or "pull-up" configuration.

Nowhere does Ames et al. describe an absorbent article such as described in claim 1 as now amended. The Examiner's attention is invited to Figures 1-3 of Ames et al. and is requested to compare the structure featured in those drawings with the structure shown in Figure 4 of the present application. As seen from Figure 4, applicants' claimed structure as defined by amended claim 1, requires only two male fasteners in the distal end of the vertical portion and four fasteners (one male and three female) in the crosspiece, a total of six (6) fasteners as compared to nine (9) fasteners in Ames et al.

There are additional differences between the construction of the diaper of Ames et al. and the absorbent article defined by claim 1. These are:

- A. Ames et al. has two fasteners at the lateral edges of the belt flap; one closure 76 on the inner surface of the second belt flap 64 and another closure 82 on the inner surface of the first flap 62. Claim 1 calls for only one fastener on the inner surface of the lateral edge of the flap.
- B. Ames et al. has two closures 84,84 on the outer surface of the front waist region, whereas the article of claim 1 has no closures on the front waist outer surface.
- C. Ames et al. has one closure 74 on the outer surface of one belt flap and two closures 78 on the outer surface of the waist region. (see Ames et al.'s Figure 2). Ames et al. also show two closures 84 on the rear of the outer surface of the front waist region. Claim 1 calls for three closures, all located on the outer surface of the lateral segments (see Figure 4).

It is submitted that the aforementioned differences in the number and locations of the fasteners cannot be ignored or oversimplified since they are relevant to the structure, manner of assembly and intended use of the article.

Claim 1 also requires that the absorbent article have a relaxed width (B) which is between about 20 to about 100 percent of the width of said absorbent article when it is fully stretched. The Examiner states that Ames et al. discloses that the back sheet comprises a strainable web material which exhibits lateral contraction behavior and an available stretch of 10-100%. The Examiner has relied on col. 7, lines 51-55, col. 8, lines 1-12 and lines 42-54, col. 10, lines 32-46, and col. 11, lines 52-60 in support of this rejection. However, the best that one skilled in the art may understand from said passages is that they refer to "two contiguous, distinct, and similar regions" and "two stage" elongation and the 10% to 100% "available stretch" refers to one stage in one of the regions. This disclosure is too nebulous to support the basis of the rejection.

On the bases of the foregoing amendment and argument, the Examiner is requested to withdraw the rejection.

Respectfully submitted,



James W. Badie, Reg. No. 20,968
Attorney for Applicants
Stoll, Miskin & Badie
The Empire State Building
350 Fifth Avenue, Suite 4710
New York, New York 10118
Telephone: (212) 244-5632